



# POLICE AND FIRE RETIREMENT SYSTEM OF SPRINGFIELD, MO

840 Boonville  
Springfield, Missouri 65801  
Voice Mail (417) 831-8901  
Box Number 44140

## Minutes September 16, 2010

### 1. Call to Order

Homan called the meeting to order at 8:35 a.m. Minutes taken by White.

#### Attendance

| Members                 | Representation       | Present | Absent |
|-------------------------|----------------------|---------|--------|
| Ken Homan               | President            | X       |        |
| John Bishop             | Citizen              | X       |        |
| David Carter            | Fire                 | X       |        |
| Charlie Cowherd         | Citizen              | X       |        |
| Jim Edwards             | Police               |         | X      |
| James Gillette          | Citizen              | X       |        |
| Josh Hartman            | Citizen              | X       |        |
| Marilyn Hill            | Citizen              | X       |        |
| Ron Hoffman             | Retiree              | X       |        |
| Brady Stark (NV)        | Police               |         | X      |
| Chris Thompson (NV)     | Fire                 | X       |        |
| James Dancy (NV)        | Retiree              | X       |        |
| Mary Mannix-Decker (NV) | Finance              |         | X      |
| Cindy Rushefsky (NV)    | City Council Liaison | X       |        |
| Dan Wichmer (NV)        | Law                  | X       |        |
| Nikki White (NV)        | Secretary            | X       |        |

NV = Non-voting

### 2. Approval Meeting Minutes – August 19, 2010 (open session)

Hoffman made a motion to approve the August 19, 2010 open session minutes as presented; 2<sup>nd</sup> by Carter. Vote all: Yes

### 3. Approval of Financial Statement Ending July 31, 2010

Homan asked Glenda Hudson to review the financial statement ending July 31, 2010. The following items of interest were reported:

- As of July 31, 2010 the fund had net assets of \$146,810,394.
- Galliard outperformed the index and was up \$406,052.
- Brandywine performed below the index, but was up \$708,964.
- Pictet outperformed the index and was up \$3,920,917.

- Total contributions were \$579,060 and net investment income was \$7,069,899.
- Total deductions were \$1,476,486 for a net increase of \$6,172,473 for the month.
- The July and August sales tax monies were accrued back to FYE June 30, 2010 because the monies were actually collected during May and June. It takes that much time for the sales taxes to be collected and submitted to the City.
- Several suggested an addendum on the year end statements showing and explaining the accrual of the sales tax monies. Hudson said that is something she can easily add.

Homan made a motion to approve the financials ending July 31, 2010; 2<sup>nd</sup> by Gillette. Vote all: Yes.

#### 4. Review of Applications

| Retiree's Name    | Application Type     | Application Date | Department |
|-------------------|----------------------|------------------|------------|
| Frederick Pfeifer | Surviving Spouse     | 9-1-2010         | Fire       |
| James Revey       | Vested Age & Service | 9-7-2010         | Police     |

Carter made a motion to approve the applications for Pfeifer and Revey; 2<sup>nd</sup> by Bishop. Vote all: Yes.

#### 5. Approval of Retirement Calculations

##### Survivor's Final Pension Calculation

| Retiree's Name    | Survivor's Name | Survivor's Pension Amount | Last Pension Amount |
|-------------------|-----------------|---------------------------|---------------------|
| Frederick Pfeifer | Gay Pfiefer     | \$2,534.43                | \$2,174.71          |

White informed the board that the death certificate and marriage license were submitted with the application for Pfeifer.

Bishop made a motion to approve the final pension calculation for Gay Pfiefer; 2<sup>nd</sup> by Carter. Vote all: Yes.

The Finance Department also had calculations for Johnson and McGuire, but the applications, death certificates and marriage licenses have not been submitted. Several board members expressed concern for not having the necessary paperwork in place prior to approving the calculations. The board has been known to approve the calculations pending receipt of the paperwork before their first check is cut. It was likely not a problem for these two families, but many felt all of the applications should be treated the same way and the necessary paperwork should be in place prior to approval of the calculations. Those present agreed that the calculations should be tabled until the next meeting. It was also mentioned that if it creates a hardship on the survivor, an electronic meeting could be scheduled once the paperwork is received if the next monthly meeting is several weeks off. Several agreed that the calculations shouldn't even come to the board until the necessary paperwork is in place and a policy should be put in place allowing the chair to use his or her discretion on approving a calculation should it create a hardship for a surviving spouse to wait until the next board meeting.

## 6. Disability Reexaminations

Homan introduced Debbie Elliot with HSI. Elliot is the new nurse consultant replacing Odom. She reported that Odom had passed all of the records on to her and updated her on the progress of the reexaminations.

Jeff Tucker of St. John's Physical Therapy was present to review the Functional Capacity Evaluation process. Tucker said an FCE is a very comprehensive test from head to toe. They utilize the job description to match up the physical job demands along with the capabilities of the client they are testing. Some people will have a tendency to self limit on the testing. If someone asks to cease the test, they have to respect that. With that in mind, they can look at the muscle recruitment that's being done during that specific test and they can say they didn't use the maximum muscle recruitment in order to complete the specific lift. There's still something in there left that they could give, but they limited the test. They can't determine how much more they have to give. They can't say the person only lifted 25 lbs. and it hurt, but they think they can really lift 50 lbs. It would be inappropriate for them to put that in their report because they couldn't back it up in court. However, they could demonstrate factors in muscle recruitment that show that they don't think they gave all the muscle recruitment that they have. The client could also say that it hurt them to lift at that point and that's what they honor. They also test heart rate and blood pressure which have a direct correlation during lifting, pulling, etc.

Hoffman said that the board isn't concerned with their overall condition. They are concerned about the injury they went out on and is their injury keeping them from working. It's the difference in duty and non-duty. He said if we aren't going to do it that way then he doesn't see the point in reevaluating them because they are all going to be failures since people tend to let themselves go especially if they have no intentions of ever going back to work. If their original injury has healed then they may have to apply for a non-duty disability. Hoffman added that at the time of disability there have been some that are very questionable and the board should only be concerned about their original injury not the rest of their body.

Elliot added that it is up to the doctor to render an opinion of the FCE as it relates to the original injury. Cowherd said the reason to reexamine is because of the possibility of recuperation. If the reason for disability was a specific injury and the injury is now resolved, but since that time other things have happened such as a bad knee and the person is still not eligible to be an officer then they should be changed to non-duty. It can change from duty to non-duty. Is it going to happen very often? Probably not, but the board still has to make that analysis. Cowherd said the board hasn't been getting the answer of whether they are still disabled because of the initial injury they went out on.

Tucker said they take a very hard look at the functional job description. It is very critical to them in their evaluation. According to the job description provided, the employee must lift, carry, push, pull or drag up to 180 lbs. He said it would be a very tough thing for every police officer to do. He said it is an extensive job requirement. Several questioned the "or" in the statement. Do they have to do be able to do all of them or just one of them?

Cowherd said that legal staff probably needs to weigh in on their interpretation of the rules. He reads them the same way Hoffman does. Rushefsky said that the job description needs to be clear enough for the doctor to give the board the answers it needs. Hill distributed a copy of her proposed changes to the disability reexamination form.

Hoffman said the main thing he's concerned about it is that some of the injuries were fairly minor and could in fact get better. However, in the mean time if they aren't taking care of themselves they might not be fit to work, but it has nothing to do with the injury they went out on. He's not saying they aren't going to get a pension. It just should be a different kind of pension. If we are legally incorrect about the interpretation of the ordinance then it needs to be cleaned up so we understand it. If someone deteriorates, but it's not job related they have the option of applying for a non-duty disability pension. If you have a duty disability retiree who's injury improves, but they have other conditions that may prevent them from working then they are no different than an employee who applies for a non-duty disability pension. If this is not the correct interpretation of the ordinance then he sees no point in conducting the reexaminations.

Wichmer entered the meeting at 9:35 a.m.

Wichmer said the policy has been that once they go out on the injury, they are locked in at whatever they went out on. If it was a duty disability then it never changes. He said he would research it, but historically they have taken the view that once they go out on a disability their locked in as either duty or non-duty. Rushefsky asked Wichmer if the question is whether they are disabled or not disabled, not whether they are duty or non-duty. Wichmer said that is correct. Hoffman said there's an issue of fairness. How is it fair to a guy that goes out on a non-duty if someone who went out on a duty recovers, but has other conditions that prevent him from working and he still gets to remain on a duty disability pension? Wichmer said he doesn't know that you can change their rights once they exit employment. He will research it and report back to the board.

Cowherd said the ordinance better follow what we are doing. If the ordinance says something different, he's going to follow the ordinance because that's what he's supposed to do. He doesn't care what everyone's been doing for 50 years. He doesn't care about the political issues. He's going to follow the ordinance so get the ordinance in line with what you're doing. If you need to change it, change it, but if you're going to leave it the way it is now he's reading it the same way Hoffman is. If that causes a problem for the City so be it. It's easier to change the ordinance than it is for him to disallow the ordinance and not abide by it.

Wichmer said he's always said the reexamining doesn't accomplish anything other than stirring this stuff up. He recommended talking to the police and fire chiefs to ask them what they are willing to do. Carter said that it needs to be kept in mind that there will not be any new members coming into the plan so any changes will affect those already in the plan. He added that the job requirements have changed several times. To him, once you're out you can't keep changing the rules for them to come back.

Homan asked Wichmer if we could go to this strict interpretation. Wichmer said yes, for those currently active in the plan. Homan asked if it would be discriminatory to start applying it. Wichmer said he didn't think it would be discriminatory at all if it is done in advance. Rushefsky and Wichmer both recommended talking to chiefs before making it as strict as some interpret. Hill added that interpretation of the job description is also needed because of the "or" in the carry, lift, push, pull or drag statement. Does that mean they have to just be able to do one or all of them? Wichmer said that could be answered by the chiefs. Several thought they meant that they should be able to do all so it should say "and" not "or".

Hoffman said the reason the board was examining all of them was out of fairness. He asked Wichmer if the board should have been doing the reexaminations or not. Wichmer said that the board hadn't

done the reexaminations in awhile because of the lawsuit. The ordinance says you have to reexamine them and you have. He said his proposal was to review the files and send them to one doctor, see what they say. If the doctor says they are still disabled then he doesn't see any reason to give further reexaminations. He said there are clearly some people who will not be able to come back so why spend the money on the doctor when he can look at the file and know there's no chance they can come back. He added that the board has the duty to examine the files and that's why the nurse consultant was hired. Homan said it is a "may" thing. The board doesn't have to do any reexaminations. Wichmer said at the time this was started, the board was pretty much in the position that they had to do them. Council wanted them reexamined and there was enough questioning going on that it needed to be done. Wichmer added that 99 percent of the time they are disabled. You're always going to have that one percent that you would have in any system. What are you going to do? Homan said that what has been found is that people in their upper 40's aren't going to be able to come back to work generally. He doesn't think there has been a real focused evaluation of the disability itself. We did have an FCE conducted, but then got into discussion about the ability to lift, carry, etc.

Homan said there's no question that what the board is looking for should have been established from the beginning. Dr. Corsolini's interpretation was as Wichmer described. Are they able to come back to work without regard specifically to the disability? That's maybe the mistake. If Wichmer comes back and agrees with Hoffman that only the disability should be looked at then this has been approached entirely wrong. Gillette said what's really bad is that this is how we got in the mess with Dr. Corsolini. Homan said that Dr. Corsolini's interpretation may have been correct, but it was certainly different than some of the board members. Wichmer said that Dr. Corsolini has been involved with the system for a long time and knows how it works. Gillette said it was clear that Dr. Corsolini had taken Wichmer's interpretation and most of the board members had taken Hoffman's interpretation. Wichmer said this is why he's getting more concerned about having split legal representation. If he's only here for half the meeting and Sheppard's only here for half the meeting the conversations tend to bleed over and there's discussions going on that both of them might not be aware of.

Hoffman said he would like Wichmer as the representing attorney to render an opinion based on what the ordinance says and he will stand on it until somebody tells him different. Wichmer said he would be happy to do so.

7. Legal Matters – Closed Session, pursuant to Section 610.021(1), RSMo.

Bishop made a motion to move to closed session at 10:15 a.m. pursuant to Section 610.021(1), RSMo.; 2<sup>nd</sup> by Carter. Vote all: Yes.

Resumed open session at 11:22 a.m.

8. Old Business

A. Investment Consultant – Homan reported that the City is handling the arrangements for the finalist's interviews because the RFP is very strict in that no member of the board should have contact or communication with the consultants. He believes they are all coming in on September 27<sup>th</sup>. He said that White was right at the point of confirming everything when the City asked that the Purchasing Department handle it. White said she will check with Mannix-Decker and notify the board of the final arrangements, but encouraged them to hold the 27<sup>th</sup>.

B. Administrative Director Update – Homan said the job description is close to being finalized. It does include a preference of having five years of defined benefit pension experience. The City has backed away and said this shouldn't be handled with their RFP process. They suggested it be advertised as any other employment opportunity. This will not be a City position so the board will be responsible for advertising and hiring the position. Homan said the more he got into it the more uncomfortable he became with worrying about making sure all the details were covered. He's looked into getting some professional help in making sure the job description is compliant and also with advertising the position. If there's a flood of applications they can help do a first tier screening. Hoffman said if it is a contract position then why is it any different than hiring an investment consultant? Homan said he's not sure why the same process is not appropriate. Hoffman said the board has always been able to utilize some of the resources and expertise available through the City. He's concerned as to why this has been singled out. Rushefsky said it is probably to the board's benefit to keep it separate. Homan said in his opinion, if the hiring resources are not available through the City then the board is going to have to look to another firm with the experience to make sure things are done properly. He asked the board for permission to pursue outside assistance if the City doesn't agree to help. Rushefsky said this position needs to be independent and there needs to be no confusion about who has hired the person. She thinks the board needs to avoid the City when hiring the person and keep it independent. Homan said that the selection committee is not real comfortable in making that hire without making sure the legal side of things is covered.

The City has agreed to provide some office space for the position. Homan asked Rushefsky how she felt about the person being in the City offices. Rushefsky said as a practical matter she thinks it's fine. She thinks the critical part is that the person knows they are being paid by the fund and this is where they are responsible. The board is still responsible to City Council. We just want to bypass City administration as much as possible. Homan said the options are to pursue the options with the City one more time or to seek independent assistance with the hiring process. Gillette said that the board is likely to find more and better applicants through a recruiter. Homan said if there's no objection then he will continue to seek the assistance of a recruiter.

Carter said he agrees with Rushefsky. There is a clear conflict of interest there and the more the board distances itself from the City and takes charge of it the better off things will be. He added that it has been a tough sell to the employees. They question why a manager is needed now. He wants to be able to say that the board did it right.

#### 9. Adjournment

Carter made a motion to adjourn the meeting; 2<sup>nd</sup> by: Gillette. Vote all: Yes. The meeting was adjourned at 11:40 a.m. on September 16, 2010.

Nikki White